

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

### **I. DISPUTE**

1. a. Whether there should be additional reimbursement for date of service, 8-17-01.
- b. The request was received on 4-9-02.

### **II. EXHIBITS**

1. Requestor, Exhibit I:
  - a. Initial TWCC 60 and letter requesting dispute resolution
    1. EOB
    2. UB-92
    3. Operative Report dated 8-17-01
  - b. There is no response to the request for additional documentation found in the file. A confirmation sheet indicates that the request was faxed to the Requestor on 6-10-02.
  - c. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome
2. Respondent, Exhibit II:

Based on Commission Rule 133.307 (g) (3), the Division notified the Requestor with a copy to the insurance carrier Austin Representative of the Requestor's requirement to submit two copies of additional documentation relevant to the fee dispute on 6-10-02. There is no Carrier initial or 14 day response to this medical fee dispute in the file.

### **III. PARTIES' POSITIONS**

1. Requestor: No position statement.
2. Respondent: No position statement.

### **IV. FINDINGS**

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 8-17-01.
2. This decision is being written based on the documentation that was in the file at the time it was assigned to this Medical Dispute Resolution Officer.

3. Per the Requestor's Table of Disputed Services, the Requestor billed the Carrier \$6,282.50.
4. Per the Requestor's Table of Disputed Services, the Carrier paid the Requestor \$800.20.
5. According to the Table of Disputed Services the amount in dispute is \$5,482.30.

## **V. RATIONALE**

Medical Review Division's rationale:

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401 (a)(4) states ASCs, "shall be reimbursed at a fair and reasonable rate...". The EOB submitted indicates that the services were denied as "M – THE REIMBURSEMENT FOR THE SERVICE RENDERED HAS BEEN DETERMINED TO BE FAIR AND REASONABLE BASED ON BILLING AND PAYMENT RESEARCH AND IS IN ACCORDANCE WITH LAB OR CODE 413.011(b)".

Section 413.011 (d) of the Texas Labor Code states, "Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines."

Rule 133.307 (g) (3) (D) places certain requirements on the provider when supplying documentation with the request for dispute resolution. The provider is to discuss, demonstrate, and justify that the payment amount being sought is fair and reasonable. Commission Rule 133.304 (i)(1-4) places certain requirements on the carrier when reducing the billed amount to fair and reasonable. Regardless of the carrier's timely or untimely response, or lack thereof, and regardless of the carrier's methodology submitted or lack thereof, the burden remains on the provider to show that the amount of reimbursement requested is fair and reasonable.

There is no documentation to support that the fees billed are fair and reasonable or conforms to the criteria identified in Section 413.011 (d) of the Texas Labor Code. The Requestor has not discussed, demonstrated, or justified that the payment being sought is fair and reasonable which is required by Rule 133.307 (g)(3)(D). Therefore, based on the evidence available for review, the Requestor has not established entitlement to additional reimbursement.

The above Findings and Decision are hereby issued this 27th day of August 2002.

Lesa Lenart, RN

Medical Dispute Resolution Officer

Medical Review Division

LL/II

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.